



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

November 17, 2014

Frederick Hafetz, Esq.  
Hafetz & Necheles LLP  
One Grand Central Place  
60 East 42<sup>nd</sup> Street  
New York, NY 10165

**Re: *United States v. Selim Zherka*, S2 14 Cr. 545 (CS)**

Dear Mr. Hafetz:

This letter provides discovery pursuant to Rule 16(a) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."), and seeks reciprocal discovery. It and the enclosed materials are being provided to you subject to the terms of the protective order entered by the Court on November 13, 2014.

**I. Disclosure by the Government**

Based on your request for discovery in this case, we have enclosed copies of documents/records as set forth below.

**A. Miscellaneous Documents/Records**

We have enclosed copies of the following materials, which are stamped with control numbers USAO-SZ-1 through USAO-SZ-89: the Indictment in this case; the defendant's criminal history record; and handwriting exemplars provided by the defendant.

We have also enclosed an external hard drive containing documentary discovery (HD1).<sup>1</sup>

**B. Documents/Records Related to/from the Search of Pagani's Law Offices**

On December 1, 2011, the law offices of Bascetta, Pagani, Kearns and Small, LLC, at 1331 Silas Deane Highway, Weathersfield, Connecticut were searched pursuant to a search warrant signed by a United States Magistrate Judge for the District of Connecticut. A copy of

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<sup>1</sup>We have previously provided to you 25 CD-ROM discs containing documentary discovery labelled as follows: Disc A, Disc B, Disc C, Disc D, Disc E, Disc F, Discs G (1-13), Disc H, Disc I, Disc J, Disc K, Discs L (1-2).

the warrant, which is stamped with control numbers USAO-SZ-90 through USAO-SZ-91 is enclosed.

Documents seized pursuant to the search warrant above were reviewed for privilege by an “ethical wall” AUSA who removed fifty-five (55) documents as privileged. The remaining documents, *i.e.*, the documents that were seized less the privileged documents, were already produced to you and are contained on Disc A, Disc B, and Disc C. We do not intend to produce the privileged documents to you.

During the execution of the search warrant above, forensic images of nine (9) desktop computers and one (1) server were taken on site. Additionally four (4) 72GB DAT tapes and one (1) digital voice recorder were seized for further forensic analysis.<sup>2</sup> It was then determined which of the desktop computer/server images had user accounts on them belonging to given user names.<sup>3</sup> If a desktop/server image had a user account belonging to one or more of those individuals, all of the emails and documents on the image in question were searched using given search terms<sup>4</sup>. The emails on the tapes in email accounts for the given user names above were also searched using the same search terms above. The documents and emails culled using the above criteria were ultimately placed on nine (9) Concordance “builds” (collectively, the “Concordance Database”). The Concordance Database was then searched for privileged documents by an “ethical wall” AUSA in our office. He performed that search electronically by using search terms.<sup>5</sup> He reviewed the documents containing those search terms and removed thirty-three (33) documents as privileged. The Concordance Database, less the privileged documents, are being produced to you herewith on a Blu-ray Disc (BRD1). The password for

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<sup>2</sup> The tapes were back-up for the exchange server and were for storage of emails. One of the four tapes was unreadable, and emails could only be extracted from two of the remaining three tapes. There were no recordings on the digital recorder.

<sup>3</sup> The following user names were used: Pagani, DeCaro, Caulfield, Smal/ or Kearns.

<sup>4</sup> The following search terms were used: New England, Hageman, Rosewood, Stanley, 17 Eastern, Seventeen Eastern, 154 164, Marshall, ASM, Bedford, AFK, Buddy Pal, Bunker Hill, Farmington, First American, Maple Street, Maple St, New Britain, New Colony, North Country, Property Appraisal, Ridgeway, Smyth Nora, Tic Tac Toe, Agnillo, Tennessee, Belle Forest, 2191 Memorial, Lodge North, 452 Moss, Maple Hills, 543 S, 543 South, Miller Glen, Jack Miller, Parkwood, Durrett, Peachers, Pheasant Run, New Shackle, Riverside, 939 Riverside, Shannon Woods, Wallace Glen, 171 Wallace, TN Metro, Green Realty, [laconial23@aol.com](mailto:laconial23@aol.com), [samzherka@gmail.com](mailto:samzherka@gmail.com), [rsllc@aol.com](mailto:rsllc@aol.com), [pandpllc@aol.com](mailto:pandpllc@aol.com), [ctnoemi@aol.com](mailto:ctnoemi@aol.com), [metroholdingsmgmt@gmail.com](mailto:metroholdingsmgmt@gmail.com), Anastasio, Baghdady, Castanho, Castro, Caufield, Caulfield, Cerini, Cibelli, Collins, Dacar, Decaro, Dibbini, DiFiore, Djonovic, Festo, French, Glasser, Klehr, Klett, Kukaj, Lewis, Mackniak, Bradford, Matta, Morales, Murray, Nora, Nikac, Oliveri, Neil, Dominica, Puglisi, Rubin, Russo, Scarpa, Pat, Pasquale, Patrick, Scher, Sisti, Kevin, Paula, Stallone, Swerdlin, Zand, Zherka, Selim, Sam, Sammy, UPS, Uncle Pat, Zieran, Alba, Cicchetti, CR Kennedy, Creative Realty, EZ Closings, Morrison Mahoney, MultiMac, NCJA, Nubreed, Sovereign, Tri State Holdings, and Contribution.

<sup>5</sup> The following search terms were used: Zherka, Morales, Scarpa, Sisti, and [Laconial23@aol.com](mailto:Laconial23@aol.com).

the files on that disc is D!\yW43eX%+CtfSR. We do not intend to produce the privileged documents to you.

### **C. Documents/Records related to the Manhattan District Attorney's Investigation**

The Government will provide documents and records that are related to a previous investigation conducted by the Manhattan District Attorney's Office with the assistance of the FBI to you in subsequent correspondence.

### **D. Brady Material**

The Government recognizes its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny. To date, the Government is unaware of any *Brady* material regarding your client, but will provide timely disclosure if any such material comes to light.

### **E. Giglio Material**

The Government will provide material under *Giglio v. United States*, 405 U.S. 150, 154 (1972), and its progeny, in a timely manner prior to trial.

### **F. Fed. Evid. R. 404(B)**

The Government hereby serves notice that it intends to offer evidence of uncharged crimes/bad acts pursuant to Federal Evidence Rule 404(b), namely:

- 1) The defendant and/or his agent(s) provided a false statement to North Fork Bank in connection with a loan application. Specifically, we will offer Court's Exhibit 1 (10/16/02 letter of Selim Zherka to Dymphna Giannone of North Fork Bank) of the proceedings of September 19, 2014 (detention hearing). The defendant falsely described the *Ryan v. Zherka* litigation therein. The evidence of this prior crime/bad act will consist chiefly of the pleadings, relevant transcripts, the verdict sheet, and the judgment in that case, as well as other false statements the defendant made about that case that are the subject of Count Six, including, but not limited to, Court's Exhibit 1 (2/28/07 letter of Sam Zherka to Meridian Capital Group) of the proceedings of September 19, 2014.
- 2) The defendant and Kevin Sisti filed a fraudulent, collusive lawsuit in the District of Connecticut (*Sisti v. Zherka, Sovereign Bank, et al.*, D. Conn. Dkt. No. 11 Civ. 364 (CSH)). Specifically, we will show a) that the defendant asked Sisti to sue him and Sovereign Bank so that he could cross-claim against Sisti and b) that the allegation in Sisti's complaint and Zherka's cross-complaint against Sovereign were false – as Sisti and the defendant well knew. The evidence of this prior crime/bad act, will consist largely of the testimony of one or more co-conspirators, the pleadings in the case, and the response of the defendant's entities to relevant grand jury subpoenas duces tecum.

### **G. Bill of Particulars**

The Government will respond to your November 12 letter request for a bill of particulars in subsequent correspondence.

### **II. Disclosure By the Defendant**

In light of your request for the foregoing discovery, the Government hereby requests reciprocal discovery under Fed. R. Crim. P. 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defendant disclose prior statements of witnesses he will call to testify. *See* Fed. R. Crim. P. 26.2; *United States v. Nobles*, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

### **III. Sentence Reduction for Acceptance of Responsibility**

This Office will oppose the additional one-point reduction under the Sentencing Guidelines available for defendants who plead prior to the Government's initiation of trial preparations pursuant to U.S.S.G. § 3E1.1(b), in the event your client has not entered a plea of guilty at least 30 days prior to the date set for trial. Additionally, unless a disposition is reached on a timely basis prior to trial, this Office reserves the right to oppose the two-point reduction under U.S.S.G. § 3E1.1(a) of the Sentencing Guidelines for acceptance of responsibility based upon its untimeliness.

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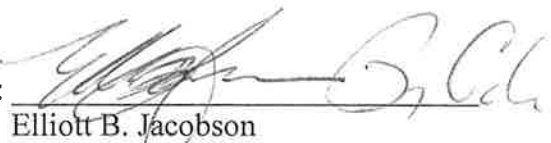
Please contact us at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request. Please be advised, however, that pursuant to the policy of the Office concerning plea offers, no plea offer is effective unless and until made in writing and signed by authorized representatives of the Office. In particular, discussions regarding the pretrial disposition of a matter that are not reduced to writing and signed by authorized representatives of the Office cannot and do not constitute a "formal offer"

or a “plea offer,” as those terms are used in *Lafler v. Cooper*, 132 S.Ct. 1376 (2012); *Missouri v. Frye*, 132 S.Ct. 1399 (2012).

Very truly yours,

PREET BHARARA  
United States Attorney

by:

  
Elliott B. Jacobson  
Perry A. Carbone  
Assistant United States Attorneys

Enclosures

[print] Selim Zherka

1. Selim Zherka

2. Selim Zherka

3. Selim Zherka

4. Selim Zherka

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6. Selim Zherka

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12. Selim Zherka

10/6/14 *st*

[write your signature]

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[print] N O P Q R S T U V W X Y Z

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3. N O P Q R S T U V W X Y Z

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5. N O P Q R S T U V W X Y Z

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10/6/14  
SA  
4

[script] The quick brown fox jumps over the lazy dog.

1. The quick brown fox jumps over the lazy dog
2. The quick brown fox jumps over the lazy dog
3. The quick brown fox jumps over the lazy dog
4. The quick brown fox jumps over the lazy dog
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11. The quick brown fox jumps over the lazy dog
12. The quick brown fox jumps over the lazy dog

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3A 5

[print] ATTN: Seth Grossman

1. ATTN: Seth Grossman
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3. ATTN: Seth Grossman
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5. ATTN: Seth Grossman
6. ATTN: Seth Grossman
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6

[print] Sammy Zherka

1. Sammy Zherka
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12. Sammy Zherka

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7

[print] As of

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[print] Zherka

1. Zherka

2. Zherka

3. Zherka

4. Zherka

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8. Zherka

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SK  
9

[print] Meridian Capital Suite 400

1. Meridian Capital Suite 400
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7. Meridian Capital Suite 400
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10/6/14  
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[print] SAM ZHERKA

1. SAM ZHERKA

2. SAM ZHERKA

3. SAM ZHERKA

4. SAM ZHERKA

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12. SAM ZHERKA

[print] Also not including real estate holdings where I hold less than 25% stake

1. Also not including real estate holdings where I hold less than 25% stake
2. Also not including real estate holdings where I hold less than 25% stake
3. Also not including real estate holdings where I hold less than 25% stake.
4. Also not including real estate holdings where I hold less than 25% stake
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[print] RR

1. RR

2. RR

3. RR

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12. RR

10/6/14  
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13

[print] Rent Roll

1. Rent Roll

2. Rent Roll

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11. \_\_\_\_\_

12. \_\_\_\_\_

10/6/14  
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14

[print] to To purchase Home goods

1. ~~to~~ To Purchase Home goods
2. ~~to~~ To Purchase Home goods
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9. ~~to~~ To Purchase Home goods
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JL  
15

[print] a b c d e f g h i j k l m

1. a b c d e f g h i j k l m

2. a b c d e f g h i j k l m

3. a b c d e f g h i j k l m

4. a b c d e f g h i j k l m

5. a b c d e f g h i j k l m

6. a b c d e f g h i j k l m

7. a b c d e f g h i j k l m

8. a b c d e f g h i j k l m

9. a b c d e f g h i j k l m

10. a b c d e f g h i j k l m

11. \_\_\_\_\_

12. \_\_\_\_\_

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ik

[print] A B C D E F G H I J K L M

1. A B C D E F G H I J K L M

2. A B C D E F G H I J K L M

3. A B C D E F G H I J K L M

4. A B C D E F G H I J K L M

5. A B C D E F G H I J K L M

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12. \_\_\_\_\_

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gt  
17



[print] Cash in Bank

1. Cash in Bank

2. Cash in Bank

3. Cash in Bank

4. Cash in Bank

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8. Cash in Bank

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18

[print] million dollars

1. Million dollars

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5. Million dollars

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8. Million dollars

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[print] Stevens Ave.

1. Stevens Ave

2. Stevens Ave

3. Stevens Ave

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20

[print] Mt Vernon NY

1. Mt Vernon NY

2. Mt Vernon NY

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[print] Commercial

1. Commercial

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[print] n o p q r s t u v w x y z

1. n o p q r s t u v w x y z

2. n o p q r s t u v w x y z

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4. n o p q r s t u v w x y z

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[print] Boca Raton, Fla 33431

1. Boca Raton Fla 33431
2. Boca Raton Fla. 33431
3. Boca Raton Fla. 33431
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24



[print] value

1. value

2. value

3. value

4. value

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25

[print] mortgage

1. mortgage

2. mortgage

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7. mortgage

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gt  
24

[print] 561-362-3282

1. 561-362-3282

2. 561-362-3282

3. 561-362-3282

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5. 561-362-3282

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SA  
27

[print] 2385 NW Executive Center Dr.

1. 2385 NW Executive Center Dr.
2. 2385 NW Executive Center Dr
3. 2385 NW Executive Center Dr
4. 2385 NW Executive Center Dr
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6. 2385 NW Executive Center Dr.
7. 2385 NW Executive Center Dr
8. 2385 NW Executive Center Dr.
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10/6/14  
st  
28

[print] The quick brown fox jumps over the lazy dog.

1. The quick brown fox jumps over the lazy dog
2. The quick brown fox jumps over the lazy dog
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SA  
ZG

[print] SELIM ~~ZUHRIYA~~

1. SELIM

2. SELIM

3. SELIM

4. SELIM

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6. SELIM

7. SELIM

8. SELIM.

9.

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12.

10/6/14  
ST  
30

[script] credit card

1. Credit Card
2. Credit Card
3. Credit Card
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11. \_\_\_\_\_
12. \_\_\_\_\_

10/6/14  
SA  
31



[script] work done

1. Work done
2. Work done
3. Work done
4. Work done
5. Work done
6. Work done
7. Work done
8. Work done
9. \_\_\_\_\_
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12. \_\_\_\_\_

10/6/14  
SA  
32

[script] Repay loan

1. Repay Loan
2. Repay Loan
3. Repay Loan
4. Repay Loan
5. Repay Loan
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SA  
33

[print] Tank cleaning

1. Tank cleaning
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21  
34

[print] Esad Kukaj

1. Esad Kukaj
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6. Esad Kukaj
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[print] 0 1 2 3 4 5 6 7 8 9

1. 0 1 2 3 4 5 6 7 8 9

2. 0 1 2 3 4 5 6 7 8 9

3. 0 1 2 3 4 5 6 7 8 9

4. 0 1 2 3 4 5 6 7 8 9

5. 0 1 2 3 4 5 6 7 8 9

6. 0 1 2 3 4 5 6 7 8 9

7. 0 1 2 3 4 5 6 7 8 9

8. 0 1 2 3 4 5 6 7 8 9

9. \_\_\_\_\_

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12. \_\_\_\_\_

10/6/14  
SA  
36

[script] deposit towards 1% of loan

1. Deposit towards 1% of loan
2. Deposit towards 1% of loan
3. Deposit towards 1% of loan
4. Deposit towards 1% of loan
5. Deposit towards 1% of loan
6. Deposit towards 1% of loan
7. Deposit towards 1% of loan
8. Deposit towards 1% of loan
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10/6/14  
44  
37

[print] Repayment of money

1. Repayment of money
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8. Repayment of money
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10/6/14  
SA  
38

[print] American Rediscount note payment for money borrowed

1. American Rediscount note payment for money borrowed
2. American Rediscount note payment for money borrowed
3. American Rediscount note payment for money borrowed
4. American Rediscount note payment for money borrowed
5. American Rediscount note payment for money borrowed
6. American Rediscount note payment for money borrowed
7. American Rediscount note payment for money borrowed
8. American Rediscount note payment for money borrowed
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_



[script] American Samoa

1. America Samoa
2. America Samoa
3. America Samoa
4. America Samoa
5. America Samoa
6. America Samoa
7. America Samoa
8. America Samoa
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

10/6/14  
41  
40

[script] Samson and Delilah

1. Samson and Delilah
2. Samson and Delilah
3. Samson and Delilah
4. Samson and Delilah
5. Samson and Delilah
6. Samson and Delilah
7. Samson and Delilah
8. Samson and Delilah
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

10/6/14  
ST  
41

[script] Thus Spake Zarathustra

1. Thus Spake Zarathustra
2. Thus Spake Zarathustra
3. Thus Spake Zarathustra
4. Thus Spake Zarathustra
5. Thus Spake Zarathustra
6. Thus Spake Zarathustra
7. Thus Spake Zarathustra
8. Thus Spake Zarathustra
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

10/6/14  
GA  
42

[script] Tammy Faye Bakker

1. Tammy Faye Bakker
2. Tammy Faye Bakker
3. Tammy Faye Bakker
4. Tammy Faye Bakker
5. Tammy Faye Bakker
6. Tammy Faye Bakker
7. Tammy Faye Bakker
8. Tammy Faye Bakker
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_

10/6/14  
Sgt  
43

[script] Bronz Zoo

1. Bronz Zoo

2. Bronz Zoo

3. Bronz Zoo

4. Bronz Zoo

5. Bronz Zoo

6. Bronz Zoo

7. Bronz Zoo

8. Bronz Zoo

9.

10.

11.

12.

10/6/14  
SA  
44

AO 93 (SDNY Rev. 05/10) Search and Seizure Warrant

## UNITED STATES DISTRICT COURT

for the  
District of Connecticut

In the Matter of the Search of )  
 (Briefly describe the property to be searched )  
 or identify the person by name and address) ) Case No.  
 )  
 The Law Offices Of Bascetta, Pagani, Kearns and )  
 Small, LLC, 331 Silas Deane Highway, Suite 206, )  
 Weathersfield, Connecticut )

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the \_\_\_\_\_ District of \_\_\_\_\_ Connecticut

(identify the person or describe the property to be searched and give its location):

The Law Offices Of Bascetta, Pagani, Kearns and Small, LLC, 1331 Silas Deane Highway, Suite 206, Weathersfield, Connecticut

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

See RIDER Attached Hereto

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before

December 9, 2011  
 (not to exceed 14 days)

☒ in the daytime 6:00 a.m. to 10 p.m. ☐ at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to the Clerk of the Court. *undersigned*

Upon its return, this warrant and inventory should be filed under seal by the Clerk of the Court. *Magistrate Judge*

☐ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) ☐ for \_\_\_\_\_ days (not to exceed 30).

☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued: 11/30/2011 9:00 am  
at 11:27 am

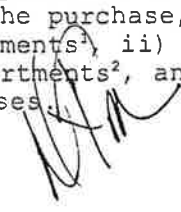
*Donna F. Martinez*  
 Judge's signature

City and state: Hartford, Connecticut

Donna F. Martinez, United States Magistrate Judge  
 Printed name and title

## RIDER

Evidence, instrumentalities, and fruits of violations of Title 18, United States Code, Sections 1014 (false statement on loan applications), 1344 (bank fraud), 1503 (obstruction of justice), and 371 (conspiracy to commit the aforesaid offenses), including but not limited to: notes, correspondence, e-mails, billing and payment records, memoranda, appraisals, title abstracts, financial statements, loan and mortgage documents, agreements, contracts, deeds, pleadings, electronically stored information, e-mails, computer hard drives, computer disks, and computer tapes related to and/or referencing i) the purchase, sale, and financing of the New England Apartments<sup>1</sup>, ii) the purchase, sale, and financing of the Tennessee Apartments<sup>2</sup>, and iii) the Federal Lawsuit<sup>3</sup> are located in the Premises.



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<sup>1</sup>As used herein "the New England Apartments" shall mean apartment houses located at the following: a) the Ridgeway Apartments (located Rosewood Avenue, Waterbury, Connecticut; b) the Farmington Hills Apartments (located at 1230 Stanley Street, New Britain, Connecticut); c) the Bunker Hill Woods Apartments (located at 17 Eastern Avenue, Waterbury, Connecticut); d) the New Colony Court Apartments (located at 154-164 Maple Street, Springfield, Massachusetts); and e) the Marshall Apartments (located at 10 Marshall Street, Hartford, Connecticut).

<sup>2</sup>As used herein "the Tennessee Apartments" shall mean apartment houses located at the following locations: : a) 2191 Memorial Drive, Clarksville, Tennessee; b) 543 South 12th Street, Clarksville, Tennessee; c) 131 Jack Miller Boulevard, Clarksville, Tennessee; d) 3381 Durrett Drive, Clarksville, Tennessee; e) 827 Peachers Mill Road, Clarksville, Tennessee; f) 830 Peachers Mill Road, Clarksville, Tennessee; g) 939 Riverside Drive, Clarksville, Tennessee; h) 1671 Fort Campbell Boulevard, Clarksville, Tennessee; i) 171 Wallace Boulevard, Clarksville, Tennessee; j) 231 New Shackle Island Road, Henderson, Tennessee; k) 452 Moss Trail, Goodlettsville, Tennessee; and i) 300 Greenwood Avenue, Clarksville, Tennessee.

<sup>3</sup>As used herein "the Federal Lawsuit" shall mean *Sisti v. Zherka et al.*, Dkt. No. 3:11-cv-00364-CSH pending in the District of Connecticut.